

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

AUG 07 2013

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DEPUTY  
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23 IN THE UNITED STATES DISTRICT COURT

24 FOR THE EASTERN DISTRICT OF WASHINGTON  
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26  
27 UNITED STATES OF AMERICA,  
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29 Plaintiff,  
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31 v.  
32

33 PETRIE & SONS, INC., and  
34 GUY A. PETRIE,  
35

36 Defendants.  
37  
38

Civil No. CV-13-00200-LRS

~~PROPOSED~~

ORDER GRANTING MOTION FOR  
PRELIMINARY INJUNCTION; AND  
PRELIMINARY INJUNCTION

1 Plaintiff, the United States, has moved for a preliminary injunction. The  
2 Motion came before the Court for a hearing on August 7, 2013. Based upon the  
3 United States' Motion, the documents submitted in support of the Motion, the  
4 defendants' Answer, and the arguments of the parties and the evidence (if any)  
5 submitted at the August 7 hearing, the Court **GRANTS** the United States' Motion  
6 and **HEREBY ENJOINS** the defendants as set out below. Pursuant to Federal  
7 Rule of Civil Procedure 65(d), the Court makes the following findings of fact and  
8 conclusions of law.

#### 9 Findings of Fact

10 1. Defendant Petrie & Sons has failed, and continues to fail, to timely file  
11 federal employment tax returns and to timely deposit federal employment taxes.

12 2. Petrie & Sons is wholly controlled by its principal, defendant Guy Petrie.

13 3. As of May 30, 2013, Petrie & Sons owes the United States more than  
14 \$750,000.00.

15 4. Petrie & Sons does not have sufficient unencumbered assets to satisfy the  
16 outstanding tax liabilities, and if further federal employment tax liabilities accrue,  
17 the new liabilities will not be recoverable.

18 5. By failing to file tax returns, by failing to properly withhold and pay over  
19 taxes its employees owe to the United States, and by failing to pay the federal  
20 employment tax it owes, Petrie & Sons has violated and is continuing to violate

Preliminary Injunction

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1 numerous federal statutes and regulations. The statutes Petrie & Sons is violating  
2 include 26 U.S.C. §§ 3102 (requiring withholding of employees' FICA taxes),  
3 3111 (requiring payment of employer's FICA taxes), 3301 (requiring payment of  
4 employer's FUTA taxes), 3402 (requiring withholding of employees' income  
5 taxes), 6011 (requiring filing of returns), 6151 (requiring timely filing of returns),  
6 6302 (requiring deposit of taxes), and 7501 (requiring withheld taxes to be held in  
7 trust for the United States). The regulations include 26 C.F.R. §§ 31.6071(a)-1  
8 (requiring employment tax returns to be filed by the end of the month following  
9 close of tax period) and 31.6302-1 (requiring deposit of withheld taxes).

10 6. The defendants were aware of these obligations, but continuously failed to  
11 meet them, to the detriment of the United States.

12 7. The Court finds that the conduct of Petrie & Sons interferes with the  
13 administration of the internal revenue laws.

#### 14 **Conclusions of Law**

15 1. To obtain a preliminary injunction to halt conduct that interferes with the  
16 internal revenue laws, the United States must demonstrate that the injunction is  
17 necessary or appropriate for the enforcement of the internal revenue laws. 26  
18 U.S.C. § 7402(a). In the alternative, the United States must demonstrate that it is  
19 likely to succeed on the merits; that it is likely to suffer irreparable harm in the  
20 absence of preliminary relief; that the balance of equities tips in its favor; and that

Preliminary Injunction

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1 the injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555  
2 U.S. 7, 20 (2008).

3 2. The United States is likely to succeed on the merits. It has submitted  
4 substantial evidence that Petrie & Sons has failed to file employment tax returns  
5 and that Petrie & Sons has failed to timely pay employment taxes it owes.

6 3. The United States will suffer irreparable harm in the absence of  
7 preliminary relief. Petrie & Sons has failed to file federal employment tax returns  
8 for the last three quarters and has not made any federal tax deposits for more than a  
9 year. Petrie & Sons does not have sufficient unencumbered assets to pay any  
10 further accrued federal employment taxes. It has knowingly disregarded its  
11 obligations under federal law in the past, and therefore is likely to do so in the  
12 future absent injunctive relief.

13 4. The balance of equities tips heavily in the United States' favor. The  
14 United States will suffer irreparable harm from Petrie & Sons continuing to accrue  
15 federal employment tax liabilities without the prospect of repayment. Petrie &  
16 Sons will suffer no substantial harm by being required to comply with federal laws.

17 5. The injunction would aid in the collection of taxes legally due and owing  
18 and those accrued in the future. Therefore, it is in the public interest.

19 6. For the foregoing reasons, the injunction is necessary and appropriate to  
20 the enforcement of the internal revenue laws.

7. Pursuant to Federal Rule of Civil Procedure 65(c), the United States is not required to give security for entry of an injunction.

## Preliminary Injunction

Now, therefore, entry of a preliminary injunction is authorized under Federal Rule of Civil Procedure 65. Defendant Petrie & Sons, Inc.; its officers, agents, servants, employees, and attorneys, specifically including but not limited to Guy Petrie; and anyone else who is in active concert or participation with Petrie & Sons, Inc. (collectively referred to as “Petrie & Sons”); and defendant Guy Petrie individually, are **HEREBY ENJOINED** as follows:

A. Petrie & Sons shall withhold from its employees' wages the amounts required by federal law, including the employees' federal income taxes pursuant to 26 U.S.C. § 3402 and the employees' Federal Insurance Contribution Act taxes pursuant to 26 U.S.C. § 3102.

B. Petrie & Sons shall deposit with its bank all amounts withheld from its employees' paychecks within 72 hours of paying any amount in wages to any person.

C. Petrie & Sons shall deposit with its bank the amount it owes in Federal Insurance Contribution Act taxes pursuant to 26 U.S.C. § 3111 within 72 hours of paying any amount in wages to any person.

1 D. Petrie & Sons shall retain receipts for each deposit described in paragraphs  
2 B and C and workpapers showing how the amount of each such deposit was  
3 calculated. Within 24 hours of making the deposits described in paragraphs B and  
4 C, Petrie & Sons shall transmit copies of the receipts and the workpapers to IRS  
5 Revenue Officer Denice Davis by facsimile at 509-363-1172 or by email to  
6 denice.y.davis@irs.gov.

7 E. Petrie & Sons shall pay over to the IRS all amounts deposited pursuant to  
8 paragraphs B and C according to the semi-weekly schedule set forth in 26 C.F.R. §  
9 31.6302-1(c)(2).

10 F. From the time that this Preliminary Injunction is entered until Petrie &  
11 Sons has made all payments to the IRS described in paragraph E, Petrie & Sons  
12 shall not assign or transfer any property or rights in property for any reason, nor  
13 make any disbursement of funds for any purpose.

14 G. For the first quarter of 2013 and all subsequent tax periods, Petrie & Sons  
15 shall file every employment tax return required by federal law, specifically  
16 including Form 941, Employer's Quarterly Federal Tax Return, no later than the  
17 date that the return is due.

18 H. Within 30 days of the entry of this Preliminary Injunction, Petrie & Sons  
19 shall file complete and accurate federal employment tax returns for the first quarter  
20 of 2009 and the first, second, and third quarters of 2012.

1 I. Within 24 hours of filing the returns described in paragraph H, Petrie &  
2 Sons shall send complete copies of the returns to IRS Revenue Officer Denice  
3 Davis by facsimile at 509-363-1172 or by email to denice.y.davis@irs.gov. The  
4 United States may later designate in writing, upon reasonable notice to Petrie &  
5 Sons, a different person to whom Petrie & Sons shall send the returns.

6 J. Petrie & Sons shall not transfer any money or other property to any other  
7 person or entity in order to have the transferee pay the wages of any employee of  
8 Petrie & Sons.

9 K. Within 72 hours of the entry of this Preliminary Injunction, Petrie & Sons  
10 shall deliver a copy of this Preliminary Injunction to each person who has authority  
11 to sign checks, disburse funds, or otherwise dispose of the property of Petrie &  
12 Sons.

13 L. Within 72 hours of receiving a copy of this Preliminary Injunction, each  
14 person described in paragraph K shall make the Court the following  
15 acknowledgment in writing: "I have received a copy of the Court's Preliminary  
16 Injunction in the case *United States v. Petrie & Sons, Inc.* I have read the  
17 Preliminary Injunction. I will personally determine, prior to signing checks,  
18 disbursing funds, or otherwise disposing of the property of Petrie & Sons, Inc., that  
19 Petrie & Sons has made all of the payments to the IRS required by Paragraph E of  
20 the Court's Preliminary Injunction." Within 7 days of the entry of this Preliminary  
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1 Injunction, each such acknowledgment shall be provided to IRS Revenue Officer  
2 Denice Davis by facsimile at 509-363-1172 or by email to denice.y.davis@irs.gov.


*[Handwritten mark]*  
3 ~~M. Within 10 days of the entry of this Preliminary Injunction, Petrie & Sons~~  
4 ~~shall deliver a copy of this Preliminary Injunction to each of its employees not~~  
5 ~~described in paragraph K.~~

6 N. If defendant Guy Petrie shall begin to operate any other business enterprise  
7 that has employees, within seven days, he shall notify IRS Revenue Officer Denice  
8 Davis by facsimile at 509-363-1172 or by email to denice.y.davis@irs.gov.

9 O. This Preliminary Injunction shall equally apply to any other business  
10 enterprise operated by Guy Petrie, as if that enterprise's name were substituted for  
11 Petrie & Sons in this Order.

12  
13 **It is so ordered.**

14  
15 Dated this 7<sup>th</sup> day of August, 2013.

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18 \_\_\_\_\_  
19 HON. LONNY R. SUKO  
UNITED STATES DISTRICT JUDGE